IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Second Appeal No. 1469 of 2001
(Old No. 1122 of 1995)

Rajendra Singh S/o Sardar Raghubir Singh
Prop. New India Automobiles, Tikonia
Haldwani, District Nainital .....Appellant

Vs.

1. Union of India through General Manager
   N.E. Railway
   Gorakpur (U.P.)
2. The Chief Claims Officer
   Northern Railway, Mint House
   Varanasi (U.P.) ..... Respondents

Sri K.N. Joshi, learned counsel for the appellant.

Hon'ble B.C. Kandpal, J.

This second appeal has been preferred by the appellant against the judgment and decree dated 06.11.1989 passed by Civil Judge, Nainital in Civil Appeal No. 83 of 1988 arising out of the judgment and decree dated 05.10.1988 passed by Munsif, Nainital in Original Suit No. 54 of 1984.

2. Brief facts of the case are that the plaintiff/appellant filed a suit before the Munsif, Nainital who decreed the suit in favour of the plaintiff/appellant with a direction that the appellant is entitled to get Rs. 8100/- along with 6% interest from the respondent/defendant vide judgment and decree dated 05.10.1988.

3. Feeling aggrieved by the aforesaid judgment and decree, the defendant/respondent preferred an appeal before the lower appellate court by which the judgment and decree dated 05.10.1988 passed by Munsif Magistrate, Rudrapur in Original Suit No. 54 of 1984 was set aside vide judgment and decree dated 06.11.1989.

4. Feeling aggrieved by the aforesaid judgment and decree of the lower appellate court, the plaintiff/appellant preferred an appeal before the Allahabad High Court, which has been transferred to this Court after creation of separate State.

5. Heard Sri K.N. Joshi, learned counsel for the appellant and perused the record.

6. Having considered the arguments advanced by the learned counsel for the appellant and after perusal of the evidence on record, I am of the view that this second appeal is concluded by finding of facts, I, therefore, do not find any ground to interfere in the impugned judgment and order passed by the court below. The lower appellate court has recorded justified and proper finding of fact which cannot be interfered at the stage of second appeal. I also do not find any substantial question of law involved in this case.

7. The second appeal lacks merit and is liable to be dismissed.

8. Accordingly, the second appeal is dismissed in-limine.

(B.C. Kandpal, J.)

02.12.2006
ASWAL